



CHAPTER 093 WESTERN ALASKA COMMUNITY DEVELOPMENT QUOTA PROGRAM

6 AAC 93.010 PURPOSE OF REGULATIONS.

The purpose of this chapter is to implement the state's role in the Western Alaska Community Development Quota Program (CDQ Program) for the Bering Sea and Aleutian Islands Area under 50 C.F.R. 679.

History - Eff. 11/18/92, Register 124; am 4/10/93, Register 126; am 8/13/94, Register 131; am 1/1/98, Register 144; am 8/19/99, Register 151
Authority - Ak. Const., art. III, sec. 1
Ak. Const., art. III, sec. 24
[AS 44.33.020](#) (11)

6 AAC 93.012 REFERENCES TO FEDERAL LAW.

In this chapter, each reference to a provision of 50 C.F.R. 679 refers to that provision as revised as of June 9, 1999.

History - Eff. 8/19/99, Register 151
Authority - Ak. Const., art. III, sec. 1
Ak. Const., art. III, sec. 24
[AS 44.33.020](#) (11)

6 AAC 93.015 CDQ TEAM; RESPONSIBILITIES; LEAD STATE AGENCY.

(a) To carry out the state's role in the CDQ program under 50 C.F.R. 679, a CDQ team shall perform functions as directed in and under this chapter. The CDQ team consists of

- (1) the commissioner of the Department of Community and Economic Development, or one or more of the commissioner's representatives from that department, including one person to act as CDQ manager;
- (2) the commissioner of the Department of Fish and Game, or one or more of the commissioner's representatives from that department; and
- (3) one or more other state employees or state officials designated jointly by those commissioners, if additional members of the team would be beneficial.

(b) The Department of Community and Economic Development is the lead agency. CDQ program material submitted under this chapter shall be submitted to the lead agency.

(c) To fulfill the purpose of this chapter, including providing accountability to the CDQ program, the CDQ team shall

- (1) solicit submittals of community development plans (CDP) from eligible communities;
- (2) review and evaluate proposed CDPs;
- (3) make recommendations regarding CDQ allocations and changes to allocations;
- (4) review and make recommendations regarding amendments to approved CDPs;
- (5) monitor the performance of each CDQ group in achieving the group's milestones and objectives in its CDP;
- (6) seek to ensure consistency between the CDQ program standards in 6 AAC 93.017 and a CDQ group's activities that are subject to this chapter and 50 C.F.R. 679; and
- (7) based on reports and other information obtained under this chapter, prepare and submit to the governor, for the governor's review, approval, and necessary action, the state's annual progress report described in 50 C.F.R. 679.30(g) and (h).

(d) The governor will, in the governor's discretion, delegate in writing the responsibility for carrying out one or more duties of the governor under this chapter to the CDQ team.

History - Eff. 11/18/92, Register 124; am 4/10/93, Register 126; am 8/13/94, Register 131; am 1/1/98, Register 144; am 8/19/99, Register 151
Authority - Ak. Const., art. III, sec. 1
Ak. Const., art. III, sec. 24

[AS 44.33.020](#) (11)

Editor's Notes - The mailing address for submitting material under this chapter is: CDQ Team, Office of the Commissioner, Department of Community and Economic Development, P.O. Box 110803, Juneau, Alaska 99811-0803.

6 AAC 93.017 CDQ PROGRAM STANDARDS.

To carry out the state's role under 50 C.F.R. 679 and this chapter, the CDQ team shall apply the standards listed in (1) -

(9) of this section, as applicable. The CDQ team shall determine whether

- (1) a CDP provides specific and measurable benefits to each community participating in the CDP;
- (2) as part of a CDP, a CDQ project provides benefits to individual residents of a participating community, to a single participating community, or to all participating communities;
- (3) a proposed CDP has the support of all participating communities;
- (4) each CDQ project listed in a CDP has the support of the applicant's or CDQ group's board of directors, reflected by official action of the board;
- (5) before initiating a proposed CDQ project, a CDQ group exercised a level of due diligence that reflects the value of the investment, the risk involved, and the type of project;
- (6) a reasonable likelihood exists that a for-profit CDQ project will earn a financial return to the CDQ group;
- (7) the CDQ group has minimized legal and financial risk;
- (8) the CDQ group has clearly demonstrated how a proposed CDQ project will further the goals and purpose of the CDQ program as stated in 50 C.F.R. 679.1(e); and
- (9) in areas of fisheries harvesting and processing, the CDQ group, to the greatest extent possible, has promoted conservation-based fisheries by taking actions that will minimize bycatch, provide for full retention and increased utilization of the fishery resource, and minimize impact to essential fish habitats.

History - Eff. 8/19/99, Register 151

Authority - Ak. Const., art. III, sec. 1

Ak. Const., art. III, sec. 24

[AS 44.33.020](#) (11)

6 AAC 93.020 CDQ APPLICATION PERIOD.

(a) Within a reasonable time before an application period is to begin, the CDQ team shall

(1) establish the application period by scheduling a deadline for receipt of proposed CDPs from qualified applicants and by scheduling a projected time frame for

- (A) initial evaluation;
- (B) holding a public hearing to discuss all CDPs received; and
- (C) final review;

(2) publish a notice that announces the CDQ application period, states the allocation cycle, and states the deadline for submitting a proposed CDP; the notice must be published in at least one newspaper of general circulation in Western Alaska and in at least one newspaper of general circulation in the state; and



(3) mail a copy of the notice to each eligible community.
(b) Except as provided in [6 AAC 93.075](#) (b), the deadline for submission of a proposed CDP set by (a)(1) of this section may not be less than 14 days after publication of the notice under (a) of this section.
(c) If, after publication of the notice under (a) of this section, the CDQ team determines that it is necessary to change the allocation cycle, the CDQ team shall notify all applicants and eligible communities and publish notice of the change.
History - Eff. 11/18/92, Register 124; am 4/10/93, Register 126; am 1/1/98, Register 144; am 8/19/99, Register 151
Authority - Ak. Const., art. III, sec. 1
Ak. Const., art. III, sec. 24
[AS 44.33.020](#) (11)

6 AAC 93.025 REQUIREMENTS FOR SUBMITTING A PROPOSED CDP.

(a) To apply for an allocation under 50 C.F.R. 679, a qualified applicant must submit to the CDQ team, on or before the deadline set under [6 AAC 93.020](#), a complete proposed CDP that contains the information required by 50 C.F.R. 679.30(a), including
(1) a statement that the applicant is a qualified applicant as defined in 50 C.F.R. 679.2; this statement must be accompanied by a certificate of incorporation showing that the applicant is a nonprofit corporation formed under AS 10.20;
(2) a statement as to whether the applicant is also the managing organization for the proposed CDP;
(3) a statement that each community participating in the proposed CDP is an eligible community as defined in 50 C.F.R. 679.2;
(4) with the list of communities participating in the CDP required by 50 C.F.R. 679.30(a)(1)(iv),
(A) the population of each community;
(B) the economic conditions in each community; and
(C) evidence that the applicant has developed an effective outreach project to keep participating communities informed about the CDQ group's activities and to facilitate community input throughout the course of the CDP;
(5) for each member of the applicant's board of directors, a letter of support or election results from the board member's eligible community and a statement of support from the governing body of each community participating in the proposed CDP; the statement of support may be a copy of a resolution, letter, or other appropriate expression of support;
(6) for each species allocation, evidence, such as a contract with a business partner, that the applicant has not obligated, and does not intend to obligate, further allocations to a third party;
(7) for an applicant that is also a managing organization,
(A) evidence that the managing organization has a board of directors with a membership composed of at least 75 percent resident fishermen from the community or group of communities participating in the CDP, with at least one member from each community; and
(B) a statement of support from the governing body of each community that the organization represents; the statement of support may be a copy of a resolution, letter, or other appropriate expression of support;
(8) for a managing organization that will participate in a fishery on behalf of the applicant, but is not the applicant, a statement

of support from the governing body of each community that the organization represents; the statement of support may be a copy of a resolution, letter, or other appropriate expression of support;
(9) information regarding the particular benefits that an allocation under the CDP would generate for the Bering Sea and Aleutian Islands region; in addition, the applicant may provide information regarding any benefits to the state or the United States;
(10) the applicant's existing and foreseeable business relationships; to meet the requirement of this paragraph, the applicant shall
(A) provide copies of any contractual service arrangements dealing with legal, lobbying, audit, accounting, allocation management, investment research, fund management, and similar services;
(B) provide copies of profit sharing arrangements;
(C) provide copies of funding and financing plans; and
(D) describe each type of relationship, including joint ventures, loans, partnerships, corporations, and, if applicable, distribution of proceeds;
(11) a copy of the investment policies that the applicant will follow for
(A) for-profit CDQ projects;
(B) infrastructure CDQ projects;
(C) fund and cash management CDQ projects; and
(D) other applicable CDQ projects;
(12) as part of the detailed description of each CDQ project required by 50 C.F.R. 679.30(a)(1)(i), information that
(A) identifies the project as an active or proposed CDQ project;
(B) describes the project's normal scope of operations; and
(C) indicates whether an active project should be classified as a core or noncore CDQ project;
(13) a milestone table that sets out specific and measurable objectives for each CDQ project and dates for achieving each objective;
(14) budgets, including
(A) a general budget for the proposed CDP that identifies all allocation revenue, project revenue, and project expenditures for the entire period for the proposed CDP;
(B) an annual budget listing detailed expenses for each CDP project for the first year of the proposed CDP; and
(C) an annual comprehensive budget for the allowable administrative expenses, as previously determined by the CDQ team, specifically indicating the expenses that are chargeable to the managerial, general administrative, and policy phases of a CDQ group and the group's projects;
(15) a description of how the applicant plans to report financial and audit information to the CDQ team throughout the course of its CDP, in accordance with [6 AAC 93.050](#); and
(16) any additional information that the CDQ team finds is necessary to determine whether to recommend approval of the proposed CDP under 6 AAC 93.040(c).
(b) An eligible community may not
(1) submit more than one proposed CDP during a single CDQ application period; or
(2) participate in more than one CDP; this paragraph does not prevent an eligible community from participating in halibut allocations that are restricted by regulatory areas of the

International Pacific Halibut Commission and 50 C.F.R. 679.30.

(c) Except for circumstances that the CDQ team finds were beyond the applicant's control, the CDQ team may not evaluate a proposed CDP received after the deadline set under [6 AAC 93.020](#).

History - Eff. 11/18/92, Register 124; am 4/10/93, Register 126; am 8/13/94, Register 131; am 1/1/98, Register 144; am 8/19/99, Register 151

Authority - Ak. Const., art. III, sec. 1

Ak. Const., art. III, sec. 24

[AS 44.33.020](#) (11)

Editor's Notes - The mailing address for the CDQ team is set out in the editor's note at [6 AAC 93.015](#).

6 AAC 93.030 INITIAL EVALUATION OF PROPOSED CDPS.

(a) The CDQ team shall perform an initial evaluation of a proposed CDP submitted under [6 AAC 93.025](#) to determine whether the CDP is complete. Within 15 days after a proposed CDP is received, the CDQ team shall notify the CDP applicant of any information needed to make the CDP complete. The applicant must submit the needed information within 10 days after being notified by the CDQ team. If, after the initial evaluation period, the CDQ team finds that additional information is needed for completeness, the applicant will have 10 days after notification to provide the information.

(b) After the initial CDP evaluation, the CDQ team shall schedule a public hearing under [6 AAC 93.035](#) as required by 50 C.F.R. 679.30(b).

History - Eff. 11/18/92, Register 124; am 4/10/93, Register 126; am 8/13/94, Register 131; am 1/1/98, Register 144; am 8/19/99, Register 151

Authority - Ak. Const., art. III, sec. 1

Ak. Const., art. III, sec. 24

[AS 44.33.020](#) (11)

6 AAC 93.035 PUBLIC HEARING.

(a) The CDQ team shall schedule at least one public hearing on all pending complete proposed CDPs, providing for a teleconference site in each geographical area that is subject to a proposed CDP.

(b) The CDQ team shall provide notice of the date and location of a public hearing

(1) to each applicant whose proposed CDP is the subject of the hearing;

(2) through newspaper publication; in addition, notice may be provided through other media; and

(3) to any other person the CDQ team believes will be interested in a pending CDP.

(c) A public hearing under this section must be recorded and transcribed. The transcript of the public hearing will be made available to the public, upon request, at the same time that the transcript is submitted under [6 AAC 93.045](#)

(d) Repealed 8/19/99.

History - Eff. 11/18/92, Register 124; am 4/10/93, Register 126; am 8/13/94, Register 131; am 1/1/98, Register 144; am 8/19/99, Register 151

Authority - Ak. Const., art. III, sec. 1

Ak. Const., art. III, sec. 24

[AS 44.33.020](#) (11)

6 AAC 93.040 FINAL EVALUATION OF PROPOSED CDPS [COMPLETE CDP APPLICATIONS]

(a) After the public hearing under [6 AAC 93.035](#), the CDQ team shall evaluate all complete proposed CDPs to determine whether the CDPs are consistent with the standards in [6 AAC](#)

[93.017](#) and meet the applicable requirements of this chapter and 50 C.F.R. 679.

(b) The CDQ team shall consider the following factors when reviewing a complete proposed CDP:

(1) the number of participating eligible communities and

(A) the population of each community; and

(B) the economic conditions in each community;

(2) the size of the allocation requested by the applicant and the proper allocation necessary to achieve the milestones and objectives as stated in the proposed CDP;

(3) the degree, if any, to which each CDQ project is expected to develop a self-sustaining local fisheries economy, and the proposed schedule for transition from reliance on an allocation to economic self-sufficiency;

(4) the degree, if any, to which each CDQ project is expected to generate

(A) capital or equity in the local fisheries economy or infrastructure; or

(B) investment in commercial fishing or fish processing operations;

(5) the applicant's contractual relationship, if any, with joint venture partners and the managing organization;

(6) the applicant's and the applicant's harvesting and processing partners', if any, involvement and diversity in all facets of harvesting and processing;

(7) the coordination or cooperation with other applicants or CDQ groups on CDQ projects;

(8) the experience of the applicant's industry partners, if any;

(9) the applicant's CDQ projects for employment, education, and training that provide career track opportunities;

(10) the benefits, if any, to the state's economy or to the economy of communities that are not eligible to participate in the CDQ program that are in addition to the benefits generated by the proposed CDP for participating communities;

(11) a demonstration, through the information submitted under [6 AAC 93.025\(a\)\(11\)](#), that the applicant has a formal, effective administrative process that sets out sound business principles and examples of due diligence that the applicant will exercise;

(12) the development, if any, of innovative products and processing techniques as well as innovation in harvesting gear for conservation and maximum utilization of the fishery resource;

(13) the applicant's ability to maintain control over each of its allocations;

(14) the capital or equity generated by the applicant's CDQ projects for fisheries-related business investment;

(15) the past performance of the applicant and the applicant's industry partners, as appropriate;

(16) the applicant's transition plan, including the objectives set out in the milestone table submitted under [6 AAC 93.025](#)

(a)(13);

(17) for each CDQ project, the inclusion in the proposed CDP of realistic measurable milestones for determining progress;

(18) the degree of participating community input in developing the proposed CDP;

(19) the likely effectiveness of the outreach project described in [6 AAC 93.025\(4\)\(C\)](#); and

(20) comments provided by other agencies, organizations, and the public.



(c) After evaluation under this section, the CDQ team shall transmit to the governor for the governor's review and necessary action each proposed CDP and the CDQ team's evaluation and recommendation regarding each CDP. The governor will then make a written finding that a proposed CDP either

- (1) meets the requirements of this chapter and 50 C.F.R. 679 and will be recommended to the National Marine Fisheries Service (NMFS) for approval for an allocation in the amount requested by the applicant;
- (2) meets the requirements of this chapter and 50 C.F.R. 679 and will be recommended to the NMFS for approval with a reduced allocation from the amount initially requested by the applicant; or
- (3) does not meet the requirements of this chapter and 50 C.F.R. 679 and will not be recommended to the NMFS for approval.

(d) If there is a sufficient quota of fishery resource available to meet the combined total allocations requested in all of the complete proposed CDPs that meet the requirements of this chapter and 50 C.F.R. 679, the governor will, in the governor's discretion, recommend all of those CDPs to the NMFS for approval.

(e) If there is an insufficient quota of fishery resource available to meet the combined total allocations requested in all of the complete proposed CDPs that meet the requirements of this chapter and 50 C.F.R. 679, the governor will, in the governor's discretion and after consultation by the CDQ team under (f) of this section,

- (1) apportion the available quota among the applicants whose CDPs will be recommended for approval and will recommend the apportionment to the NMFS for approval; or
- (2) select those complete proposed CDPs that the governor believes best satisfy the objectives, requirements, and criteria of the CDQ program and will recommend those CDPs to the NMFS for approval; a recommendation under this paragraph may also include a recommendation for an apportionment under (1) of this subsection.

(f) Before the CDQ team recommends an apportionment of the quota under (e) of this section, it shall consult with the applicants that might be affected by the proposed apportionment. The CDQ team may request an applicant to submit a revised CDP to assist the CDQ team in determining the

- (1) economic feasibility and likelihood of success of the proposed CDP with an allocation of fishery resource less than that requested; and
- (2) particular benefits that may be derived by participating communities affected by an allocation of fishery resource less than that requested.

(g) In apportioning the quota of fishery resource under (e) of this section, the governor will consider the information specified in this chapter and 50 C.F.R. 679 and seek to maximize the benefits of the CDQ program to the greatest number of participating communities.

(h) Before forwarding recommendations to the NMFS under [6 AAC 93.045](#), the governor will, or, at the governor's direction, the CDQ team shall, consult with the North Pacific Fishery Management Council regarding the proposed CDPs to be recommended by the governor for allocations and incorporate

any comments from the council into the written findings required under (c) of this section and 50 C.F.R. 679.30(d).
History - Eff. 11/18/92, Register 124; am 4/10/93, Register 126; am 8/13/94, Register 131; am 1/1/98, Register 144; am 8/19/99, Register 151
Authority - Ak. Const., art. III, sec. 1
Ak. Const., art. III, sec. 24
[AS 44.33.020](#) (11)

6 AAC 93.045 RECOMMENDATIONS TO THE NMFS REGARDING PROPOSED CDPs.

After making written findings under [6 AAC 93.040](#) regarding the complete proposed CDPs, the governor will

- (1) forward the proposed CDPs to the NMFS with written findings, rationale, and recommendations for approval of proposed CDPs and CDQ allocations; and
- (2) notify in writing each CDP applicant as to whether the applicant's proposed CDP was recommended to the NMFS for approval, including whether any reduction of allocation was recommended under 6 AAC 93.040.

History - Eff. 11/18/92, Register 124; am 4/10/93, Register 126; am 1/1/98, Register 144; am 8/19/99, Register 151
Authority - Ak. Const., art. III, sec. 1
Ak. Const., art. III, sec. 24
[AS 44.33.020](#) (11)

6 AAC 93.050 QUARTERLY AND ANNUAL REPORTS.

(a) In order for the CDQ team to monitor a CDP as required under 50 C.F.R. 679.30, a CDQ group shall submit to the CDQ team a quarterly report for each calendar quarter in which that group's CDP is in effect, and an annual report as described in (d) of this section. Each quarterly report must be submitted by the deadline stated in (b) of this section and must contain the information required by (c) of this section.

(b) A CDQ group shall submit a quarterly report to the CDQ team, to be received or postmarked on or before

- (1) April 30 for a CDP in effect during the preceding January, February, or March;
- (2) July 30 for a CDP in effect during the preceding April, May, or June;
- (3) October 30 for a CDP in effect during the preceding July, August, or September; and
- (4) January 30 for a CDP in effect during the preceding October, November, or December.

(c) A quarterly report submitted under this section must include

- (1) information describing how, during the period covered by the report, the CDP group has met the milestones and objectives of the CDP as set out in the CDP;
- (2) a year-to-date report of all CDQ harvesting and processing activities of the CDQ group;
- (3) comprehensive financial statements if required by the CDQ team; a statement required under this paragraph must include, as applicable,
 - (A) a consolidated balance sheet;
 - (B) a consolidated income statement that clearly identifies, by CDQ project, revenue and expenditures;
 - (C) a cash flow statement; and
 - (D) financial statements for the CDQ group's subsidiaries;
- (4) complete year-to-date data regarding training, education, and employment under the CDP, provided in a format specified by the CDQ team;
- (5) minutes for any CDQ group board or directors meetings



that were held during the quarter; and

(6) any other information that the CDQ team determines is necessary to carry out the state's role in the administration of the CDQ program; if the CDQ team requires additional information under this paragraph, the CDQ team shall notify the CDQ group in writing at least 15 days before the report is due.

(d) The quarterly reports submitted under this section for a calendar year are subject to an independent audit performed by a reputable accounting firm. The CDQ group's selection of an accounting firm is subject to the CDQ team approval. The independent audit constitutes a CDQ group's annual report and must be submitted by the CDQ group to the CDQ team, to be received or postmarked no later than May 31 of the year following the calendar year covered by the audit. The audit must include

(1) a report that indicates whether the CDQ group is meeting the milestones and objectives of the CDP as set out in its CDP; the CDP group shall meet with an auditor to develop agreed-upon procedures for the content of this report;

(2) consolidated financial statements, reported according to generally accepted accounting principles and, if determined necessary by the CDQ team, supplemental schedules reporting the financial position and results of operations for each of the CDQ group's consolidated for-profit subsidiaries classified in the CDP as a core CDQ project;

(3) a note to the financial statements in which the auditor details how financial results were determined and any other relevant information;

(4) a supplemental schedule detailing the CDQ group's general and administrative expenses;

(5) except for fund and cash management CDQ projects, a budget reconciliation between all CDQ projects and administrative budgets, and actual expenditures;

(6) a management report or letter; and

(7) any other information that the CDQ team determines is necessary to carry out the state's role in the administration of the CDQ program; if the CDQ team requires additional information under this paragraph, the CDQ team shall notify the CDQ group in writing at least 15 days before the group's annual report is due.

(e) In this section, "postmarked" means the

(1) United States Postal Service postmark;

(2) the date of placement with a courier-type delivery service as evidenced on the shipping documents;

(3) the date the document is delivered to the CDQ team by facsimile; or

(4) the date the document is delivered to the CDQ team by electronic mail.

History - Eff. 11/18/92, Register 124; am 4/10/93, Register 126; am 8/13/94, Register 131; am 1/1/98, Register 144; am 8/19/99, Register 151

Authority - Ak. Const., art. III, sec. 24

Ak. Const., art. III, sec. 24

AS 44.33.020 (11)

Editor's Notes - The mailing address for the CDQ team is set out in the editor's note at [6 AAC 93.015](#).

6 AAC 93.055 AMENDMENTS TO AN APPROVED CDP.

(a) General requirements. A CDP is a working business plan that must be kept current. A CDQ group that seeks to amend a CDP under this section and 50 C.F.R. 679.30 shall submit to the CDQ

team a written request for approval of the amendment under the appropriate process described in this section. A CDQ group may not engage in an activity that requires an amendment to the group's CDP until the amendment is recommended for approval by the state and approved by the NMFS.

(b) Submittal requirements. When submitting a proposed CDP amendment under (c) or (d) of this section, in addition to the information that is required to be submitted under 50 C.F.R. 679.30(g)(4) or (5), the CDQ group shall describe how the amendment

(1) is consistent with the standards in [6 AAC 93.017](#), the group's investment policies submitted under 6 AAC 93.25(a)(11), and the requirements of 50 C.F.R. 679; and

(2) will affect the CDQ group's ability to meet the milestones and objectives in its CDP.

(c) Substantial amendments. A substantial amendment to a CDP is subject to (f) and (h) of this section and 50 C.F.R. 679.30(g)(4). A substantial amendment requires the commissioner to make a recommendation for approval or disapproval before the proposed amendment can be forwarded to the NMFS under 50 C.F.R. 679.30(g)(4). A substantial amendment is required if a CDQ group intends to

(1) make a change described in 50 C.F.R. 679.30(g)(4)(iv);

(2) pursue a proposed CDQ project that will be classified in the amended CDP as a core CDQ project;

(3) add a new proposed CDQ project;

(4) make a substantial variation in the normal scope of operations for an active core CDQ project described under [6 AAC 93.025](#) (a)(12)(B); or

(5) engage in a CDQ activity that would result in an active noncore CDQ project being classified as a core CDQ project under [6 AAC 93.057](#).

(d) Technical amendments for noncore projects. A technical amendment under this subsection is subject to 50 C.F.R. 679.30(g)(5). If a CDQ group intends to pursue an activity described in this subsection, the group shall send a letter of notification to the CDQ manager, describing the activity and seeking a technical amendment to the CDP. With the letter of notification, the CDQ group shall include the information required by (b) of this section. An activity under this subsection is subject to (g) and (i) of this section and requires the CDQ manager to make a recommendation for approval or disapproval before the proposed amendment can be forwarded to the NMFS under 50 C.F.R. 679.30(g)(5). Subject to (g)(2) of this section, the CDQ manager will make a decision under this subsection within 10 days after a letter of notification is received. Notification under this subsection is required when a CDQ group intends to

(1) pursue a proposed noncore CDQ project that is clearly identified in the CDP text and budget, if the CDQ team advises the CDQ group that notification under this section is required; or

(2) make a substantial variation in the normal scope of operations of an active noncore CDQ project, if the variation will impact the CDQ project performance measures described in the milestone table submitted under [6 AAC 93.025](#) (a)(13);

(e) Other technical amendments. A technical amendment to a CDP is subject to 50 C.F.R. 679.30(g)(5). A technical



amendment requires the CDQ manager to review the materials submitted by the CDQ group and make a recommendation for approval or disapproval before the proposed amendment can be forwarded to the NMFS under 50 C.F.R. 679.30(g)(5). A technical amendment to the CDP under this subsection is required when a CDQ group intends to

(1) make a change in its board of directors or key administrative staff;

(2) make a change in a contract dealing with a business relationship described under [6 AAC 93.025](#) (a)(10)(A);

(3) add a harvesting or processing contract that is substantially similar to an existing contract in the group's approved CDP; the CDQ group shall provide a copy of the contract; or

(4) make any other change that the CDQ team determines is technical in nature.

(f) Review process for substantial amendments. The CDQ team shall use the following process in its review for a substantial amendment proposed under (c) of this section:

(1) the CDQ team shall determine within 30 days whether the amendment

(A) is consistent with the standards, policies, and requirements discussed under (b)(1) of this section; or

(B) will reduce the CDQ group's ability to meet the milestones and objectives in its CDP;

(2) if the CDQ team finds an amendment to be inconsistent under (1)(A) of this subsection or will reduce the CDQ group's ability to meet the milestones and objectives in its CDP,

(A) the CDQ team shall notify the CDQ group; the group will have 10 days to respond with more information;

(B) within 10 days after the CDQ group's response is received, the CDQ team shall repeat the review under (1) of this subsection; and

(3) the CDQ team shall repeat the process described in (2) of this subsection until the CDQ team recommends approval of the amendment or makes a determination under (h) of this section.

(g) Review process for technical amendments for noncore projects. The CDQ manager shall use the following process in the review of a technical amendment for a noncore project proposed under (d) of this section.

(1) the CDQ manager shall determine within 10 days whether the amendment

(A) is consistent with the standards, policies, and requirements discussed under (b)(1) of this section; or

(B) will reduce the CDQ group's ability to meet the milestones and objectives in its CDP;

(2) if the CDQ manager finds that an amendment is inconsistent under (1)(A) of this subsection or will reduce the CDQ group's ability to meet the milestones and objectives in its CDP,

(A) the CDQ manager shall notify the CDQ group; the group will have five days to respond with more information;

(B) within 10 days after the CDQ group's response is received, the CDQ manager shall repeat the review under (1) of this subsection; and

(3) the CDQ manager shall repeat the process described in (2) of this subsection until the CDQ manager recommends approval of the amendment or makes a determination under (i) of this section.

(h) Recommendation for disapproval of a substantial

amendment. If the CDQ team finds that a substantial amendment proposed under (c) of this section is inconsistent with the standards, policies, or requirements referred to in (b) of this section, or that the amendment will reduce the CDQ group's ability to successfully meet the milestones and objectives in its CDP, the CDQ team shall recommend that the commissioner forward the amendment to the NMFS with a recommendation for disapproval. If the commissioner decides to recommend disapproval under this subsection, the commissioner will notify the CDQ group, advising the group that it may request reconsideration under 6 AAC 93.090.

(i) Recommendation for disapproval of a technical amendment for a noncore project. If the CDQ manager finds that a technical amendment for a noncore project proposed under (d) of this section is inconsistent with the investment policies or federal requirements referred to in (b) of this section, or that the amendment will reduce the CDQ group's ability to successfully meet the milestones and objectives in its CDP, the CDQ manager shall recommend disapproval of the amendment. If the CDQ manager finds that the amendment is inconsistent with the standards in [6 AAC 93.017](#), the CDQ manager may recommend disapproval of the amendment. The CDQ group may request reconsideration of the CDQ manager's decision under [6 AAC 93.090](#).

History - Eff. 11/18/92, Register 124; am 4/10/93, Register 126; am 8/13/94, Register 131; am 1/1/98, Register 144; am 8/19/99, Register 151

Authority - Ak. Const., art. III, sec. 1
Ak. Const., art. III, sec. 24

[AS 44.33.020](#) (11)

Editor's Notes - The mailing address for the CDQ team is set out in the editor's note at [6 AAC 93.015](#).

6 AAC 93.057 RECLASSIFICATION OF CORE AND NONCORE PROJECTS.

(a) If the annual progress report prepared by the CDQ team under 6 AAC 93.015 will address a CDQ project classified in the CDP as a noncore CDQ project that has been found by the CDQ team to meet the criteria for a core CDQ project in [6 AAC 93.900](#), the CDQ team may reclassify a noncore CDQ project as a core CDQ project in that report and shall request the CDQ group to seek a substantial amendment to its CDP under [6 AAC 93.055](#) (c). For the purposes of this subsection, the criteria in the definition of "core CDQ project" at [6 AAC 93.900](#) (13)(C)(i) may not be considered.

(b) If a CDQ group believes that a project classified in the group's CDP as a core CDQ project should instead be classified as a noncore CDQ project, the CDQ group may petition the CDQ team to reclassify the project. A CDQ group may submit a petition under this subsection only between June 15 and August 15.

(c) The CDQ team shall consider the following factors in its review of a petition submitted under (b) of this section:

(1) the maturity of the business cycle, the stability of management, and the profitability of the project;

(2) the success of the project in meeting the milestones and objectives in the CDP;

(3) whether the majority of activities of the project are occurring in, or in proximity to, an eligible CDQ community; and

(4) the overall impact the project has on the success of the CDQ group's CDP.



(d) If the CDQ team approves a petition submitted under (b) of this section, the petition will be treated as a technical amendment that is recommended for approval by the NMFS under 50 C.F.R. 679.30(g)(5).

History - Eff. 8/19/99, Register 151
Authority - Ak. Const., art. III, sec. 1

Ak. Const., art. III, sec. 24

[AS 44.33.020](#) (11)

Editor's Notes - The mailing address for the CDQ team is set out in the editor's note at [6 AAC 93.015](#).

6 AAC 93.060 SUSPENSION OR TERMINATION OF A CDP; DECREASE IN ALLOCATION.

(a) The governor will, in the governor's discretion, recommend to the NMFS in writing that a CDP be partially suspended, or terminated or that allocations under CDP be decreased if, as part of the annual progress report prepared under [6 AAC 93.015](#) or in response to an allegation under (c) of this section, the CDQ team notifies the governor that the CDQ team has determined that a CDQ group

(1) has failed to comply with

(A) this chapter; or

(B) 50 C.F.R. 679;

(2) has failed to meet its milestones or objectives; or

(3) appears unlikely to meet its milestones or objectives.

(b) Nothing in (a) of this section precludes the governor from including a recommendation for a decreased allocation with a recommendation for a partial suspension.

(c) If, at any time during the course of a CDP, the CDQ team is advised that a CDQ group has failed to comply with 50 C.F.R.

679 or with this chapter, the CDQ Team will send a written notice of the allegation to the CDQ group at the address on file at the department for the group. The CDQ group may, within 10 days after receipt of the notice, submit to the CDQ team a written response to the allegation. The CDQ team shall consider the CDQ group's written response, if any, in deciding whether to make a recommendation to the governor under (a) or (b) of this section. If the CDQ team decides to make a recommendation under (a) or (b) of this section, the CDQ team shall include the CDQ group's written response, if any, with the recommendation transmitted to the governor.

(d) Before sending the governor's recommendation under (a) or (b) of this section to the NMFS, the CDQ team shall inform the CDQ group of the governor's decision. The CDQ group may request reconsideration of the governor's decision under [6 AAC 93.090](#).

History - Eff. 11/18/92, Register 124; am 4/10/93, Register 126; am 8/13/94, Register 131; am 1/1/98, Register 144; am 8/19/99, Register 151

Authority - Ak. Const., art. III, sec. 1

Ak. Const., art. III, sec. 24

[AS 44.33.020](#) (11)

6 AAC 93.070 CONFIDENTIAL RECORDS.

(a) Except as provided in (b) and (c) of this section, records submitted under this chapter by an applicant or a CDQ group that are in the possession of the governor or the CDQ team are subject to AS 09.25.110 - 09.25.120 and are open to inspection by the public during regular office hours.

(b) A participating community, applicant, CDQ group, or managing organization wishing to protect a record that was provided to the state under this chapter may file with the governor or CDQ team a written petition identifying the record

to be protected and showing good cause to classify the record as confidential. If, at the time of submission, a participating community, applicant, CDQ group, or managing organization wishes to protect a record being submitted under this chapter, the community, applicant, group, or organization shall mark the record as "confidential" and show good cause to classify the record as confidential.

(c) Good cause to classify a record as confidential under this section includes a showing that

(1) disclosure of the record to the public might competitively or financially disadvantage or harm the participating community, applicant, CDQ group, or managing organization with the confidentiality interest, or might reveal a trade secret or proprietary business interest; and

(2) the need for confidentiality outweighs the public interest in disclosure.

(d) If the governor or CDQ team determines that good cause exists under (c) of this section, the governor or CDQ team will, in writing, classify the records as "confidential" and restrict access to them.

(e) Except as provided in Alaska Rules of Court, a record classified as confidential under this section will not be made public or furnished to any person other than the United States Secretary of Commerce, the North Pacific Fishery Management Council, the Alaska Region of the National Marine Fisheries Service, the governor, the CDQ team and staff, or other authorized representatives of the governor.

History - Eff. 11/18/92, Register 124; am 4/10/93, Register 126; am 1/1/98, Register 144; am 8/19/99, Register 151

Authority - Ak. Const., art. III, sec. 1

Ak. Const., art. III, sec. 24

[AS 44.33.020](#) (11)

Editor's Notes - The mailing address for the CDQ team is set out in the editor's note at [6 AAC 93.015](#).

6 AAC 93.075 GENERAL PROVISIONS.

(a) The governor will, in the governor's discretion, consider other factors not identified in this chapter if those factors are relevant to the decision or recommendation in question.

(b) The governor will, in the governor's discretion, relax or reduce the notice requirements of [6 AAC 93.020](#) - [6 AAC 93.040](#) if the governor determines that a shortened or less expensive method of public notice is reasonably designed to reach all interested persons.

History - Eff. 11/18/92, Register 124; am 4/10/93, Register 126

Authority - Art. III, Sec. 1, Ak. Const.

Art. III, Sec. 24, Ak. Const.

6 AAC 93.080 REPORTING OF CDQ PROGRAM FISHERY HARVEST.

A buyer of fish that, under [AS 16.05.690](#) and [5 AAC 39.130](#), is required to record and report a purchase of fish shall also record and report the buyer's purchases of fishery resources that are harvested through a CDQ program. This shall be done in the manner required by [AS 16.05.690](#) and [5 AAC 39.130](#) and other regulations adopted under that statute.

History - Eff. 1/1/98, Register 144

Authority - Ak. Const., art. III, sec. 1

Ak. Const., art. III, sec. 24

6 AAC 93.090 RECONSIDERATION PROCESS.

(a) A CDQ group may submit to the CDQ team a request for reconsideration of a decision under [6 AAC 93.055](#) or a decision under 6 AAC 93.060. Subject to (e) of this section, the request for reconsideration must be submitted within 20 days after the CDQ group receives notice of the decision. For a decision to be reconsidered, the request for reconsideration must include additional information that was not provided for consideration in the initial decision.

(b) For reconsideration of a decision under

(1) [6 AAC 93.055](#) (h), the CDQ team shall review the additional information submitted with the request for reconsideration and make a recommendation to the commissioner regarding a reconsideration decision;

(2) [6 AAC 93.055](#) (i), the CDQ manager shall review the additional information submitted with the request for reconsideration and make a reconsideration decision; or

(3) [6 AAC 93.060](#), the CDQ team shall review the additional information submitted with the request for reconsideration and make a recommendation to the governor regarding a reconsideration decision.

(c) Within 20 days after a request for reconsideration is received, notification to the CDQ group of the reconsideration decision will be made by

(1) the commissioner, for a decision under [6 AAC 93.055](#) (h);

(2) the CDQ manager, for a decision under [6 AAC 93.055](#) (i); or

(3) the governor, for a decision under [6 AAC 93.060](#).

(d) Findings regarding a reconsideration decision will be submitted to the NMFS along with the final recommendation regarding the amendment, suspension, termination, or decrease in allocation. The CDQ team shall shorten the time within which a request for reconsideration may be submitted under (a) of this section if the CDQ team determines that a participating community will be competitively or financially harmed by a delay in issuing the decision.

History - Eff. 8/19/99, Register 151

Authority - Ak. Const., art. III, sec. 1

Ak. Const., art. III, sec. 24

[AS 44.33.020](#) (11)

Editor's Notes - The mailing address for the CDQ team is set out in the editor's note at [6 AAC 93.015](#).

6 AAC 93.900 DEFINITIONS.

In this chapter

(1) "active CDQ project" means a CDQ project that was initiated under an approved CDP or through the amendment process in [6 AAC 93.055](#), and that continues its status as a CDQ project;

(2) "allocation" includes a CDQ allocation and a PSQ allocation under 50 C.F.R. 679;

(3) "allocation cycle" means the time of duration of a CDP as designated at the onset of the CDQ application period;

(4) "application period" means the time between the date of publication of the notice under [6 AAC 93.020](#) (a) and the forwarding of the final CDP recommendation to the NMFS;

(5) "CDP" means community development plan;

(6) "CDQ" means community development quota;

(7) "CDQ activity" means an activity pursued by the CDQ group that is paid for, directly or indirectly, through CDQ assets;

(8) "CDQ asset" means property of a CDQ group;

(9) "CDQ liability" means a debt of a CDQ group;

(10) "CDQ manager" means the department employee designated by the commissioner;

(11) "CDQ team" means the state officials designated in or under 6 AAC 93.015;

(12) "commissioner" means the commissioner of the department;

(13) "core CDQ project" means a CDQ project that

(A) has a collective ownership by the applicant or CDQ group that is in excess of 49 percent;

(B) has a level of involvement by the applicant or CDQ group that demonstrates effective managing control, as determined by the CDQ team; or

(C) meets at least two of the following criteria:

(i) the applicant's or CDQ group's equity interest in the CDQ project constitutes at least 25 percent of the applicant's or group's assets;

(ii) the CDQ project has total indebtedness that the applicant or CDQ group is directly liable for in excess of 25 percent of the applicant's or group's assets;

(iii) the CDQ project has total indebtedness that the applicant or CDQ group is directly liable for in excess of 25 percent of the applicant's or group's assets;

(iii) the CDQ project has been determined by the annual progress report prepared under [6 AAC 93.015](#) to not meet the milestones and objectives in the CDP for three consecutive years;

(iv) the CDQ project receives funding from the applicant or CDQ group in a calendar year;

(14) "department" means the Department of Community and Economic Development;

(15) "fisheries-related" means to have a direct or indirect link to the commercial fisheries industry;

(16) "for-profit CDQ project" means a CDQ project with a central activity that involves an ongoing exchange of goods or services for compensation between two or more parties;

(17) "governing body" means a city council, traditional council, or Indian Reorganization Act (IRA) Council;

(18) "NMFS" means the federal National Marine Fisheries Service;

(19) "noncore CDQ project" means a CDQ project that is not a core CDQ project;

(20) "proposed CDQ project" means a CDQ project that is yet to be initiated;

(21) "substantial variation" means a significant change in the normal scope of operations of an active CDQ project as stated in the CDP; a "substantial variation" includes a change that could result in a determination of inconsistency with the standards in [6 AAC 93.017](#) and a change that could affect a CDQ group's ability to meet the milestones and objectives in the CDP.

History - Eff. 11/18/92, Register 124; am 4/10/93, Register 126; am 8/13/94, Register 131; am 1/1/98, Register 144; am 8/19/99, Register 151

Authority - Ak. Const., art. III, sec. 1

Ak. Const., art. III, sec. 24

[AS 44.33.020](#) (11)

Editor's Notes - Definitions of other terms under in 6 AAC 93 are found at 50 C.F.R. 679.2.